

SUPREME COURT UPHOLDS HEALTH CARE REFORM LAW

The U.S. Supreme Court has upheld the individual mandate in the Patient Protection and Affordable Care Act (the health care reform law, or “the Act”). The mandate generally requires that most U.S. citizens and legal residents maintain “minimum essential coverage” for tax years ending after December 31, 2013, or pay a penalty. Minimal essential coverage includes health care coverage under eligible employer-sponsored plans, plans in the individual marketplace, government-sponsored programs (such as Medicare and Medicaid), and certain “grandfathered” group health plans.

The majority of the Court held that the mandate was a valid exercise of Congress’s authority under the U.S. Constitution’s Tax Clause. In essence, the majority of the Court ruled that one possible reading of the individual mandate is that it doesn’t so much mandate individuals to buy insurance, but rather imposes a penalty on those who choose not to do so. And the imposition of a tax upon someone who refuses to buy health insurance is a kind of tax that Congress can impose under its taxing authority.

While the individual mandate provision of the Act survived the Supreme Court’s scrutiny, the Court determined that a provision that required states to comply with the new eligibility requirements for Medicaid, or risk losing their funding, was not constitutionally permissible. In that regard, the Court held that the provision would be constitutional only as long as states would only lose *new* Medicaid funding, but not all of their funding, if they didn’t comply with the Act’s requirements.

As a result of the Court’s ruling, the provisions of the Act are set to go into effect as of their various effective dates. Some of the law’s provisions are already in place (e.g., the small employer health insurance credit and the qualification of children under 27 as dependents for employer-provided and other health coverage).

Other provisions are scheduled to go into effect this year or in 2013. Some examples:

- Form W-2 reporting requirement for health care benefits for 2012 tax year;
- \$2,500 limit on employee contributions to health flexible spending accounts for plan years beginning in 2013;
- Summary of Benefits and Coverage requirements for open enrollment periods starting for open enrollment periods starting on or after September 23, 2012; and
- Additional 3.8% FICA tax on unearned income and 0.9% increase in Medicare tax, both applied to high income individuals starting with the 2013 tax year.

It is expected that the Act will continue to be controversial as other provisions are set to become effective, and the law will likely be a significant issue throughout the upcoming election season -- and beyond.

If we can assist you in determining the effects this new law will have on your business or if there are any tax planning strategies you may be able to take advantage of individually, please contact us.